

REMARKS

Claims 25 and 27-73 were pending in the subject application. By this Amendment, applicants have canceled Claims 37, 38, 50, 51 and 61 without prejudice or disclaimer, and have amended Claims 25, 34, 41, 49, 54, 64 and 74 to better clarify applicants' invention. The amendment places the application in condition for allowance or in better form for appeal. Upon entry of this Amendment, Claims 25 and 27-36, 39-49, 52-60 and 62-73 will be pending and under examination.

Applicants maintain that the amendments to the claims do not raise an issue of new matter. Support for the amendments to the claims can be found in the previous version of the claims and at least on page 22, last two sentences of the first paragraph, and in original claims 18 and 22. Accordingly, entry of the amendments is respectfully requested.

Rejections under 35 U.S.C. §102

Claims 25, 27, 28, 33-39, 41-43, 48-52, 54-56, 61-62, 64-66, 71 and 73 are rejected under 35 U.S.C. §102(b) as anticipated by Boyse et al. (U.S. Patent No. 5,004,681).

Applicants respectfully traverse this rejection.

Applicants have hereinabove amended the claims to clarify that the feature "the therapeutic product is characterized by a white cell viability greater than 80%" is a property of the claimed therapeutic product, rather than a step in the process of making the claimed therapeutic product or an intended use of the therapeutic product.

The claimed invention is a therapeutic product that "is characterized by a white cell viability greater than 80%." In contrast, Boyse et al. do not teach a product with comparable white cell viability (see Table IV, column 40, Experiments 1 and 2, CFU-

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GM and CFU-GEMM cell types). Accordingly, Boyse et al. do not anticipate the claimed invention.

Claims 37, 38, 50, 51 and 61 have hereinabove been canceled, thereby rendering this rejection moot with respect to those claims.

Reconsideration and withdrawal of this ground of rejection are respectfully requested.

Rejections under 35 U.S.C. §103(a)

Dependent claims 29-32, 40, 44-47, 53, 57-60, 63, 67-70 and 72 are rejected under 35 U.S.C. §103(a) as obvious over Boyse et al. (U.S. Patent No. 5,004,681).

In view of the amendments and remarks made hereinabove, applicants maintain that Boyse et al. do not render obvious the rejected claims which depend from, and further limit, one of independent Claims 25, 41, 54 or 64. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection.

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CONCLUSIONS

In view of the amendments and the remarks made hereinabove, applicants respectfully request withdrawal of the rejections set forth in the July 13, 2004 Final Office Action and passage the pending claims to allowance. If there are any minor matters that would prevent allowance of the claims, applicants request that the Examiner contact the undersigned attorney.

No fee is deemed necessary in connection with the filing of this Amendment. However, if there are unanticipated fees required to maintain the pendency of this application, the PTO is authorized to withdraw the amount of any such fee from Deposit Account 01-1785.

Respectfully submitted,

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